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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,139

09/29/2005

Michael Bartsch

12810-00135-US1

3996

30678

7590

09/05/2008

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EXAMINER

SHIAO, REI TSANG

ART UNIT

PAPER NUMBER

1626

MAIL DATE

DELIVERY MODE

09/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,139	<b>Applicant(s)</b> BARTSCH ET AL.	
	<b>Examiner</b> REI-TSANG SHIAO	<b>Art Unit</b> 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This application claims benefit of the foreign application:  
GERMANY 10314761.6 with a filing date 03/31/2003.
2. Applicant's remarks filed on June 11, 2008 are acknowledged. Claims 1-20 are pending in the application.

### ***Responses to Election/Restriction***

3. Claims 1-20 are pending in the application. The scope of the invention of the elected subject matter is as follows.

Claims 1-7 and 19-20, in part, drawn to products (i.e., a system or catalyst), wherein the complexes Ni(0) (i.e., zero-valent nickel complex) represents compounds of formula (I) thereof.

Claims 1-7 and 19-20, in part, embraced in above elected subject matter, are prosecuted in the case. Claims 1-7 and 19-20, in part, not embraced in above elected subject matter, and claims 8-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention.

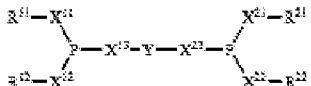
The requirement is still deemed proper and therefore is made FINAL.

### ***Responses to Amendment/Arguments***

4. Applicant's arguments regarding the rejection of claims 1-7 and 19-20 under 35 U.S.C. 102(a) or 103(a) over Lu et al. US 6,380,421, filed on June 11, 2008 have been

fully considered and they are persuasive. Since Lu et al. '421 does not disclose the instant compounds of the formula MR<sub>n</sub>, therefore the instant invention is distinct from Lu et al. '421. Therefore the rejection of claims 1-7 and 19-20 under 35 U.S.C. 102(a) or 103(a) over Lu et al. '421 has been withdrawn herein.

5. Applicant's arguments regarding the rejection of claims 1-7 and 19-20 under 35 U.S.C. 102(a), 102(e) or 103(a) over Rosier et al. US 7,084,293, filed on June 11, 2008 have been fully considered and they are persuasive, in part. Since Rosier et al. '293 does not clearly anticipate the instant invention, therefore the rejection of claims 1-7 and 19-20 under 35 U.S.C. 102(a) or 102(e) has been withdrawn herein. However, Rosier et al. '293 disclose Lewis acid selected from zinc chloride or titanium isopropylate (i.e., Ti(O-i-Pr)<sub>4</sub>), therefore Rosier et al. still inherently renders obviousness instant invention, wherein the catalyst system comprises (a) Ni(0), (b) a ligand of complexes Ni(0) (i.e.,

formula (I) 
$$P(X^1R^1)(X^2R^2)(X^3R^3)$$
 or a formula  ) or mixture thereof, (c) Lewis acid (i.e., ZnCl<sub>2</sub>) and (d) compounds of formula MR<sub>n</sub> (i.e., Ti(O-i-Pr)<sub>4</sub>), see claim 1. Therefore the rejection of claims 1-7 and 19-20 under 35 U.S.C. 103(a) over Rosier et al. US 7,084,293 is maintained.

6. Since terminal disclaimers has been not filed to the Office, the provisional rejection of claims 1-7 and 19-20 under the obviousness-type double patenting over Haderlein et al. co-pending application No. 10/577,681 or application No. 10/576,679 is maintained.

### ***Claim Objections***

7. Claims 1-7 and 19-20 are objected to as containing non-elected subject matter, i.e., the complexes Ni(0) is other than compound of formula (I), etc. It is suggested that applicants amend the claims to the scope of the elected subject matter as defined on the paragraph 3 *supra*.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rei-tsang Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rei-tsang Shiao, Ph.D./

Rei-tsang Shiao, Ph.D.  
Primary Patent Examiner  
Art Unit 1626

August 27, 2008